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19 *Attorneys for Plaintiff Matt Furie*

20 **IN THE UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 MATT FURIE,

23 Plaintiff,

24 vs.

25 INFOWARS, LLC; FREE SPEECH
26 SYSTEMS, LLC,

27 Defendants.

2:18-cv-01830-MWF-JPR

28 **DECLARATION OF LOUIS W.
TOMPROS IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Date: May 6, 2019

Time: 10:00 a.m.

Hon. Michael W. Fitzgerald

Case Filed: March 5, 2018

Trial Date: July 16, 2019

DECLARATION OF LOUIS W. TOMPROS
Case No. 2:18-cv-01830-MWF-JPR

1 I, Louis W. Tompros, declare under penalty of perjury that:

2 1. I am a partner at the law firm of Wilmer Cutler Pickering Hale and
3 Dorr LLP. I am lead trial counsel for Plaintiff Matt Furie.

4 2. I am a member in good standing of the bar of the Commonwealth of
5 Massachusetts. I have never been suspended, disbarred, sanctioned, or cited for
6 contempt by any court or administrative body.

7 3. I respectfully submit this declaration in opposition to Defendant
8 Infowars, LLC and Free Speech Systems, LLC's (collectively, "Infowars") Motion
9 for Summary Judgment in the above-referenced matter. This declaration is based
10 upon my personal knowledge.

11 4. On March 14, 2019, Tennyson J. Fauver of Randazza Legal Group,
12 LCC, emailed my colleague, William C. Kinder, requesting a time to met and
13 confer on an anticipated motion for summary judgment. The following day, Mr.
14 Kinder proposed a date for that conference of Friday, March 22, 2019.

15 5. In response to that proposal, Marc Randazza, lead counsel for
16 Defendants, responded requesting an earlier conference date. In his email, Mr.
17 Randazza stated, "This call doesn't need the entire team on each side. I think it is
18 safe to predict that you're not going to agree to our motion. The basis for it is
19 pretty predictable -- 1) He ripped off Pepe from the Argentine version, 2) fair
20 use".

21 6. I responded to Mr. Randazza's email and agreed to confer by phone
22 with him at 4:30 p.m. on March 15, 2019. I also stated in my response that Mr.
23 Furie likewise anticipated filing a motion for summary judgment, and I proposed
24 discussing both parties' motions on that call.

1 7. Mr. Randazza and I spoke by phone at 4:30 p.m. ET on March 15,
2 2019. During that call, we discussed the bases for both parties' summary judgment
3 motions.

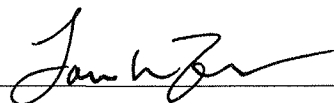
4 8. Mr. Randazza stated that the grounds for Infowars's summary
5 judgment motion were fair use and lack of copyright because Mr. Furie allegedly
6 copied Pepe the Frog from El Sapo Pepe. Specifically, Mr. Randazza stated that
7 Infowars planned to move for summary judgment on fair use, and may or may not
8 ultimately move for summary judgment on El Sapo Pepe. I told Mr. Randazza that
9 we would oppose on both grounds.

10 9. Mr. Randazza did not identify any other bases for moving for
11 summary judgment. Specifically, he did not make any mention of moving on the
12 basis of: (1) Infowars LLC being an improper defendant or not engaging in the
13 alleged infringement; (2) abandonment; (3) implied license; (4) statutory damages;
14 or (5) attorneys' fees.

15 10. To my knowledge, the first time that any counsel for Mr. Furie was
16 made aware that Infowars intended to seek summary judgment on the Infowars
17 LLC issue, abandonment, implied license, statutory damages, or attorneys' fees
18 was when Infowars's motion was served by ECF late in the evening of April 8,
19 2019.

20 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the
21 foregoing is true and correct.

22 Executed on April 12, 2019 at Boston, Massachusetts.

23
24 

25 Louis W. Tompros